

10-2-2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

**FILED**  
STATESVILLE, N.C.

**MAY 13 2005**

MARY SEAGLE,  
SSN: XXX-XX-3673

Plaintiff,

v.

JO ANNE B. BARNHART,  
Commissioner of Social Security,

Defendant.

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CIVIL NO. 5:05CV2

U.S. DISTRICT COURT  
W. DIST. OF NC

**CONSENT ORDER OF REMAND  
PURSUANT TO SENTENCE FOUR OF 42 U.S.C. § 405(g)**

The defendant, Jo Anne B. Barnhart, Commissioner of Social Security ("Commissioner"), has moved this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment reversing her decision with a remand of the cause for further administrative proceedings. Plaintiff consents to this motion.

On remand to the Commissioner, the Administrative Law Judge will: 1) Proceed beyond step two of the sequential evaluation process; 2) Specifically consider SSR 03-1p and the combined effects of plaintiff's impairments; and 3) Consider step four of the sequential evaluation process, and, if warranted, proceed to step five.

Pursuant to the power of this Court to enter a judgment reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. § 405(g), and in light of the parties' request to remand this action for further proceedings, this Court hereby **REVERSES** the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a remand of the cause to the Commissioner for further administrative proceedings. See Melkonyan v. Sullivan, 501 U.S. 89 (1991).

The Clerk of the Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. As there remains no justiciable dispute pending between the parties, upon the Clerk's entry of judgment, the Court's jurisdiction over this case shall terminate except

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SCANNED**

for purposes of consideration and determination of motions for attorney's fees, including any motion for such fees under the Equal Access To Justice Act (EAJA). Plaintiff shall have thirty (30) days from final judgment to file a motion for attorney's fees under the EAJA in this matter.

Dated this 2<sup>nd</sup> day of May, 2005.

  
CARL HORN, III  
UNITED STATES MAGISTRATE JUDGE

Consented to:

GRETCHEN C.F. SHAPPERT  
UNITED STATES ATTORNEY

  
SAMUEL F. FURGIUELE, JR. ESQ.  
ATTORNEY FOR PLAINTIFF (Mary Seagle)

  
JAMES M. SULLIVAN  
ASSISTANT UNITED STATES ATTORNEY